

3601 Vincennes Road, Indianapolis, Indiana 46268
Phone: 317.875.5250 | Fax: 317.879.8408

www.namic.org

122 C Street N.W., Suite 540, Washington, D.C. 20001
Phone: 202.628.1558 | Fax: 202.628.1601

March 27, 2017

Colorado State Legislature
House State, Veterans, and Military Affairs Committee

sent via email to:
Amanda.King@state.co.us

RE: HB 1279, Construction Defect Actions Notice Vote Approval - NAMIC's written testimony IN SUPPORT

Dear Representative Foote, Chair; Representative Lontine, Vice Chair; and honorable members of the House State, Veterans, and Military Affairs Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the House State, Veterans, and Military Affairs Committee for the March 29, 2017, public hearing.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 163 members who write property/casualty in the State of Colorado, which represents 45% of the insurance market.

The proposed legislation would require the executive board of a unit owners' association (HOA) in a common interest community to provide notice to unit owners of proposed construction defect litigation against a developer or builder on behalf of unit owners. The bill requires the board to notify all unit owners and the developer or builder against whom the lawsuit is being considered, hold a meeting at which the executive board and the developer or builder will have an opportunity to present relevant facts and arguments, and obtain the approval of a majority of the unit owners after giving them detailed disclosures about the lawsuit and its potential costs and benefits.

NAMIC supports HB 1279 as a fair and reasonable legislative project intended to promote informed litigation decision-making by HOA unit owners. NAMIC commends the bill sponsors on drafting a bill that may help facilitate a timely and cost-effective resolution of disputed construction defect claims. Specifically, NAMIC believes that the proposed requirement that the HOA unit owners be afforded an opportunity to hear from interested stakeholders, including the developer and builder, will promote thoughtful deliberation and meaningful dialogue between the parties, which could lead to an amicable resolution of the dispute.

We also fully supports the requirement that the HOA board be required to discuss with unit owners the pros and cons of the claim and anticipated costs of the litigation, so that unit owners are not blind-sided by the high cost of construction defect litigation and the logistics of civil litigation, which includes extensive discovery and frequent trial delays.

NAMIC does respectfully request a few suggested revisions to the proposed legislation:

1) The notice provided to builders and developers of the unit owners' meeting should also be directly provided to insurers involved in the underlying construction defect claim, so that they have an opportunity to participate in the meeting. Having all interested stakeholders at the meeting will help facilitate settlement discussions.

2) The notice to builders, developers (and insurers if amended to include them) of the HOA unit owners meeting should be sent out no less than five (5) business days before the meeting, so that they have ample time to prepare for the meeting. Since the goal of having builders and unit owners at the meeting is to make sure that the unit owners receive information from both sides of the legal dispute, a mere three (3) business day notice requirement is insufficient, because it could easily be missed by busy professionals and provides the builder and developer with little time to prepare for the meeting, put together materials important to the education of unit owners, and schedule the attendance of construction defect experts who may be able to answer unit owner questions.

Although NAMIC believes that additional tort reforms are needed to address problems in the system which allows for construction defect litigation abuse, we believe that this bill is a meaningful step in the right direction.

For the aforementioned reasons, NAMIC respectfully requests that you **VOTE YES on HB 1279, because HOA unit owners should not be “left in the dark” about construction defect litigation that impacts their home and/or common interest community and has direct economic implications for them.**

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,



Christian John Rataj, Esq.
NAMIC – Senior Director of State Affairs
Western Region